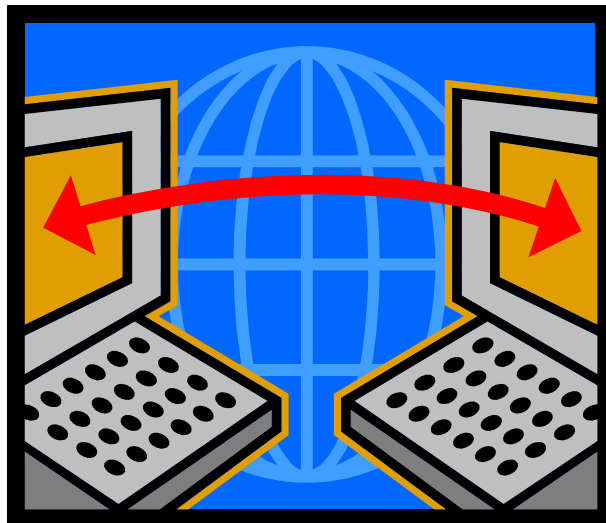


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# **CM/ECF Civil and Criminal Administrative Procedures Manual**

## **United States District Court Western District of Missouri**

### **Electronic Means for Filing, Signing and Verification of Documents**



**September 2008**

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# Administrative Procedures Manual

## September 2008

### I. REGISTRATION FOR THE ELECTRONIC FILING SYSTEM (“System”)

#### A. Designation of Cases

1. All cases will be maintained electronically at <https://ecf.mowd.uscourts.gov>.

#### B. Passwords

1. Each attorney admitted to practice in this Court and currently in good standing, or a visiting attorney admitted Pro Hac Vice, shall be entitled to a CM/ECF account to permit the attorney to participate in the electronic retrieval and filing of pleadings and other documents in accordance with CM/ECF.<sup>1</sup>
2. Registration for an account is governed by paragraph I.C.

#### C. Registration

1. A registration form, in the format attached, shall be submitted for each attorney. Visiting attorneys must be admitted Pro Hac Vice before submitting a registration form. The attached form may be duplicated for use. This form is also available on our web site at [www.mow.uscourts.gov](http://www.mow.uscourts.gov).
2. The completed registration form should be mailed to the appropriate address listed below for processing.

United States District Court Clerk's Office  
222 N. John Q. Hammons Parkway  
Springfield, MO 65806

United States District Court Clerk's Office  
400 East 9<sup>th</sup> Street, Room 1510  
Kansas City, MO 64016

United States District Court Clerk's Office  
131 W. High Street  
Jefferson City, MO 65101

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<sup>1</sup> Pursuant to the General Rules of the Judicial Panel on Multidistrict Litigation, any attorney of record in an action transferred under Section 1407 may continue to represent his or her client in any district court of the United States to which such an action is transferred; therefore, parties are not required to obtain local counsel in the district to which such an action is transferred.

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3. Each attorney registering for CM/ECF will receive an internet e-mail message after their password has been assigned. This is to insure that the attorney's internet e-mail address has been entered correctly in the CM/ECF system. The password information will then either be mailed to the attorney by regular, first-class mail or the attorney may arrange to pick up their password at the Office of the Clerk.
  4. Attorneys may change their own passwords. (For instructions on how to change your login and password, please refer to the User's Manual.) In the event that an attorney believes that the security of an existing password has been compromised and that a threat to the System exists, the attorney shall change his/her password immediately.

In addition, the attorney shall telephone either Bill Terry, Operations Manager in Kansas City, MO, Glenda Richardson, Divisional Manager, Jefferson City, MO or Shannon Brogan, Divisional Manager, Springfield, MO to report any misuse believed to have occurred or which may have occurred.

## **II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS**

### **A. Electronic Filing**

1. Except as expressly provided for in paragraph III.A, all documents required to be filed with the Court shall be electronically filed.
2. All documents which form part of a pleading and which are being filed at the same time and by the same party may be electronically filed together under one docket number, e.g., the motion and a supporting affidavit, with the exception of suggestions in support of a motion. Suggestions in support of a motion should be electronically filed separately and shown as a related document to the motion.
3. With the exception of sealed documents, if the document you wish to file requires leave of court, such as an amended complaint or a document to be filed out of time, the proposed document shall be attached as an exhibit to the motion. The document you are seeking leave of court to file **should not** be filed as a separate document. If your motion is granted, the order will direct you to electronically file the document with the court.

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## B. Sealed Documents

1. Sealed documents will be filed in CM/ECF, with access restricted to the Judge and authorized staff, unless otherwise ordered by the Court. Users wishing to file sealed documents must seek permission from the Court to file the document, unless they are being filed pursuant to a previously entered Protective Order.
2. Users should file a **Motion for Leave to File Document** and indicate that they are wishing to file a document under seal and the reason they are making the request. The proposed sealed document along with a proposed order should be e-mailed to the courtroom deputy who is assigned to the judge from whom you seek leave to file under seal. **Do not** attach the proposed sealed document to the Motion for Leave to File. The document **will not** be sealed without intervention by a court employee.
3. If leave to file a sealed document is granted, the user should file the document using the corresponding sealed document event.
4. **Sealed documents must be served on opposing counsel by mail, if required by rule. The CM/ECF system will send notification of a sealed document, but the document cannot be accessed by counsel.**

## C. Transcripts

1. Effective June 9, 2008, the United States District Court for the Western District of Missouri, in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files, Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1, implemented a new policy regarding official court transcripts. Following is a portion of the policy:
  - a. A transcript provided to the court by a court reporter or transcriber will be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed.
  - b. During the 90-day period, a copy of the transcript may be purchased from the court reporter or transcriber at the rate established by the Judicial Conference. Any attorney of record who has purchased a copy of the transcript from the court reporter or transcriber will be given remote electronic access to the transcript through the court's CM/ECF system.
  - c. After the 90-day period has ended, or longer if ordered by the court, the transcript will be available to download through PACER, for copying at the Clerk's Office, and for purchase from the court reporter or transcriber.

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2. The policy applies solely to transcripts filed on or after June 9, 2008, of proceedings held before the United States District Judges and Magistrate Judges for the Western District of Missouri and recorded by Official Court Reporters, Contract Court Reporters, and Electronic Court Recorder Operators. The policy does not apply to depositions, proceedings of state courts, other jurisdictions, or sealed transcripts.
  3. The policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made remotely available electronically to the general public.
  4. Please visit [www.mow.uscourts.gov](http://www.mow.uscourts.gov) and click on Announcements to view the complete transcript policy.

**D. Filing a Civil Complaint**

1. To file a new civil complaint or notice of removal, present the Clerk's office with a completed Civil Cover Sheet (JS-44c) using the Western District of Missouri online civil cover sheet found at [www.mow.uscourts.gov/civil\\_cover\\_sheet/cvcover.html](http://www.mow.uscourts.gov/civil_cover_sheet/cvcover.html). The civil cover sheet can be faxed or e-mailed to **one** of the following:

Office	Fax Number	E-mail Address
Kansas City	816-512-5078	<a href="mailto:kcgen@mow.uscourts.gov">kcgen@mow.uscourts.gov</a>
Springfield	417-865-7719	<a href="mailto:spfdgen@mow.uscourts.gov">spfdgen@mow.uscourts.gov</a>
Jefferson City	573-636-3456	<a href="mailto:jcgen@mow.uscourts.gov">jcgen@mow.uscourts.gov</a>

2. Payment by credit card, debit card or bank account can be made online during the filing of the complaint or notice of removal. Cash and money order payments must be received in the Clerk's Office before a case is opened.
3. Upon receipt of your initiating documents, the Clerk will open your case and notify you by phone that your case is open and it is available for you to electronically file your complaint. **It is crucial that you enter your complaint on the day you present your case for opening. FRCP 3 states that it is the filing of the complaint which initiates a case.** Please do not submit a disk or paper copy of your complaint to the Clerk's Office.

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#### **E. Issuance of Summons**

1. Completed summons can be e-mailed in PDF format to the Court. Once the complaint has been electronically filed, the Court will affix an electronic seal to the summons and e-mail them back to the requesting party for service. Please indicate in your e-mail if you prefer to pick up the summons in the Clerk's Office. Summons can also be brought to the Clerk's Office and issued at that time.

#### **F. Service**

1. CM/ECF will generate a "Notice of Electronic Filing" when any document is filed. This notice represents service of the document on parties who are registered participants with CM/ECF. The filing party shall not be required to serve any pleading or other documents on any party receiving electronic notice.
2. The filing party shall also serve those parties not designated or able to receive electronic notice but nevertheless are entitled to notice of said pleading or other document in accordance with the Federal Rules of Civil and Criminal Procedure and the Local Rules of the Western District of Missouri except as otherwise provided by order of the Court. If such service of a paper copy is to be made, it shall be done in the manner provided in the Federal Rules of Civil and Criminal Procedures and the Local Rules of the Western District of Missouri.
3. Please consult our web site ([www.mow.uscourts.gov](http://www.mow.uscourts.gov)) to view the "**Who Wants Paper?**" document to see if you need to provide a paper copy of the electronically filed pleading or other document to the chambers of the presiding judge in the case.

#### **G. Signatures; Affidavits of Service**

1. **Civil cases:** Documents which must bear original signatures or which require either verification or an unsworn declaration under any rule or statute, shall be filed electronically with originally executed copies maintained by the filer for two (2) years after final resolution of the action, including final disposition of all appeals. The pleading or other document electronically filed shall indicate a signature, e.g., "s/Jane Doe".
2. **Criminal cases:** Certain documents which must contain original signatures other than those of a participating attorney or which require either verification or an unsworn declaration under any rule or statute, shall be filed in paper and maintained in the Clerk's office.

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3. In the case of a stipulation or other document to be signed by two or more persons, the following procedure should be used:
    - a. The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document and shall obtain the physical signatures of all parties on the document.
    - b. The filing party or attorney then shall file the document electronically, indicating the signatories, e.g., “s/Jane Doe,” “s/John Doe,” etc.
    - c. If any attorney challenges his/her alleged endorsement of a jointly filed document he/she has 12 days in which to assert that challenge to the court. (*See General Order*)

#### **H. Proposed Orders**

1. A document that is submitted in PDF format cannot be modified. Therefore, a proposed order must be submitted to the Court in a word processing format. All proposed orders must be e-mailed to the courtroom deputy for the presiding judge in the case in WordPerfect format which is available in most word processing software. Please attach your proposed order to an Internet e-mail sent to the appropriate courtroom deputy:

Chief Judge Gaitan	Rhonda Enss	rhonda_enss@mow.uscourts.gov
Judge Smith	Eva Will-Fees	eva_will-fees@mow.uscourts.gov
Judge Fenner	Tracy Diefenbach	tracy_diefenbach@mow.uscourts.gov
Judge Laughrey	Renea Kanies	renea_kanies@mow.uscourts.gov
Judge Dorr	Karen Siegert	karen_siegert@mow.uscourts.gov
Judge Kays	Alexandra Francis	alexandra_francis@mow.uscourts.gov
Judge Wright	Kelly McIlvain	kelly_mcilvain@mow.uscourts.gov
Judge Sachs	Tina Duer	tina_duer@mow.uscourts.gov
Judge Whipple	Tracy Diefenbach	tracy_diefenbach@mow.uscourts.gov
Chief Magistrate England	Glenda Elayer	glenda_elayer@mow.uscourts.gov
Magistrate Maughmer	Kerry Martinez	kerry_martinez@mow.uscourts.gov
Magistrate Knox	Jackie Price	jackie_price@mow.uscourts.gov
Magistrate Larsen	Sue Anderson-Porter	sue_anderson-porter@mow.uscourts.gov
Magistrate Hays	JoRita Gicinto	jorita_gicinto@mow.uscourts.gov
Prisoner Pro Se	Diana Infranca	diana_infranca@mow.uscourts.gov



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2. In addition, if you have any questions regarding your case, you may direct your inquiry via e-mail to the appropriate courtroom deputy whose address is listed above.
  3. **Proposed Scheduling Orders** - Unlike proposed orders, proposed scheduling orders should not contain a signature line for the presiding judge. The proposed scheduling order should include the electronic signature of both the filing and opposing counsel. The non-filing party has 12 days from the filing of the proposed scheduling order to challenge their alleged agreement to the substance of the submission. (*See General Order*)

**I. Title of Docket Entries**

1. The person electronically filing a pleading or other document will be responsible for designating a title for the document. The **Search** feature in CM/ECF is available to help users find the correct category and event to use when filing a document.
2. Additional questions may be directed to the CM/ECF Help Line at 1-800-466-9302.

**J. Certificate of Service**

A *Certificate of Service* is still a requirement when filing documents electronically. **Please see page 12 for a sample Certificate of Service.**

**III. CONVENTIONAL FILING OF DOCUMENTS**

Exhibits to filed documents, such as leases, notes and the like, which are not available in electronic form shall be filed conventionally and not electronically. However, exhibits to filed documents can be electronically imaged and filed using Portable Document Format (PDF). Whenever possible, the attorney should extract and file electronically the relevant portions of conventionally produced documents.

When filing attachments and exhibits in paper format which are greater than 10-15 pages per exhibit, the user shall create a one page .pdf document titled ***Notice of Exhibit Attachment***. This document must be attached to the electronic pleading, using the same steps described above for an exhibit, so that there will be a notation on the docket sheet that exhibits are being held in the clerk's office in paper. **Please see page 11 for a sample Notice of Exhibit Attachment.** If attachments and exhibits are filed in paper format, you must provide an original for the Clerk's office, a copy for the Judge and a copy must be served on all parties in the case.

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#### **IV. PUBLIC ACCESS TO THE SYSTEM DOCKET**

##### **A. Internet Access Without a Password**

1. Public remote access to the system for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records (“PACER”) system. The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed case information, such as docket sheets and filed documents.
2. Any person or organization with a PACER login and password other than those referred to in paragraph I.B. may access the System at the Court’s Internet site at <https://ecf.mowd.uscourts.gov>. Such access to the System through the Internet site will allow retrieval of the docket sheet and documents. Unless a user has a CM/ECF filing level account, access to the System will be on a “read only” basis.

##### **B. Public Access at the Court**

1. Public access for viewing civil and criminal documents filed in the System and the System docket is available during regular business hours, Monday through Friday, in the Office of the Clerk. Viewing access is available through courthouse terminals at no charge. There is a per page charge for documents printed from the public terminals.

##### **C. Conventional Copies and Certified Copies**

1. Conventional copies and certified copies of electronically filed documents may be purchased at the Office of the Clerk, during business hours Monday through Friday. The fee for copying and certification will be in accordance with 28 USC Section 1930.

#### **V. TECHNICAL FAILURES**

The Clerk shall deem the WDMO public web site to be subject to a technical failure on a given day if the Site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon that day, in which case filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings may be rejected unless accompanied by a declaration or affidavit attesting to the filing person’s failed attempts to file electronically at least two times after 12:00 p.m. separated by at least one hour on each day of delay due to such technical failure. If you have questions about CM/ECF, please call our Help Desk at 1-800-466-9302.

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## VI. PRIVACY

The United States District Court for the Western District of Missouri is an electronic case management court (CM/ECF). Pleadings are filed electronically and are available on the Court's Internet website. Any subscriber to CM/ECF and/or PACER will be able to read, download, store and print the full content of electronically filed documents with the exception of exhibit attachments to documents in excess of 10-15 pages, and Social Security cases.

Some exhibit attachments are being maintained in paper only and will be available in the clerk's office. The clerk's office will not make electronically available documents that have been sealed or otherwise restricted by court order. Attorneys of record in a case are given one free access to view each electronic document. For additional access opportunities and for other interested viewers there are minimal charges associated with case access and the requirement of a PACER password.

You should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via CM/ECF and/or PACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading, whether it is filed traditionally or electronically:

- a. **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
- b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- c. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.
- d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- e. **Home addresses.** If a home address must be included, only the city and state should be listed. (This applies to criminal case documents only.)

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may file an unredacted document under seal. You are asked to do so only if you believe maintenance of the unredacted material in the court file is critical to your case. In addition, you must electronically file a redacted copy for the public file, absent order of the court.

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You are advised to exercise caution when filing documents that contain the following:

- 1) Personal identifying number, such as driver's license number;
- 2) medical records, treatment and diagnosis;
- 3) employment history;
- 4) individual financial information; and
- 5) proprietary or trade secret information.

**Counsel is strongly urged to share this notice with all clients** so that an informed decision about the inclusion of certain materials may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that the redaction of personal identifiers is done. The clerk will not review each pleading for redaction.

#### **VII. SPECIAL NOTICE TO PARTIES/ATTORNEYS IN SOCIAL SECURITY CASES**

It is your responsibility to provide the U.S. Attorneys' office with the social security number of the plaintiff upon the filing of a new social security case. You may e-mail Sharon Whitaker at [sharon.whitaker@usdoj.gov](mailto:sharon.whitaker@usdoj.gov) OR you may call her at 816-426-3130 with this information.

#### **VIII. INSTRUCTIONS FOR FILING UNDER PRIVACY ACT (E-Government Act)**

When filing a document which contains the personal identifiers specified in VI (*above*), the user must choose the appropriate event and attach the redacted version of the document to that filing. In addition, if it is determined that the submission of an unredacted version is crucial to the case, the user shall print a copy of the Notice of Electronic Filing, seal the document in a separate envelope, attaching the Notice of Electronic Filing to the outside of that envelope and shall label the envelope "Unredacted Version of Previously Filed Document–SEALED."

When the Clerk's office receives an unredacted copy of a document that was electronically filed, the deputy clerk will edit the original entry by adding the following language: "SEALED unredacted version received by the court on (*insert date*)."

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# SAMPLE FORMAT

## *IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI \_\_\_\_\_ DIVISION*

_____	)	
Plaintiff(s),	)	
	)	Case No. _____
vs.	)	
_____	)	
Defendant(s).	)	

### **NOTICE REGARDING EXHIBIT ATTACHMENT**

Exhibit \_\_\_\_\_ which is an attachment to \_\_\_\_\_

is in paper form only and is being maintained in the case file in the Clerk's office.

\_\_\_\_\_  
Attorney for (Plaintiff or Defendant)

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

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# S A M P L E   F O R M A T

## *Certificate of Service*

I hereby certify that on \_\_\_\_ (Date) \_\_\_\_ I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: \_\_\_\_\_ and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: \_\_\_\_\_.

s/ \_\_\_\_\_

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United States District and Bankruptcy Courts  
Western District of Missouri

Case Management/Electronic Case Files  
Attorney/Participant Registration Form

This form shall be used to register for an account on the Court's Case Management/Electronic Case Files (CM/ECF) system. Registered attorneys and other participants will have privileges to electronically submit documents and to receive electronic notice of documents filed in the Western District of Missouri CM/ECF system in those cases in which the registered user is a participant.

**NOTE: This is a restricted Web site** for official court business only. Unauthorized entry or use or any use that attempts to circumvent access controls or the **PACER** billing processes is prohibited and subject to prosecution under Title 18 of the U. S. Code. All activities and access attempts are logged and any prohibited actions may result in immediate withdrawal of access privileges, referral for prosecution and permanent suspension of filing and use privileges in any court of the Western District of Missouri.

The following information is required for registration:

First/Middle/Last Name: \_\_\_\_\_

Last Four Digits of Social Security Number: \_\_\_\_\_

Attorney Bar #: \_\_\_\_\_ State: \_\_\_\_\_

Firm/Company Name: \_\_\_\_\_

Firm/Company Address: \_\_\_\_\_

Firm/Company City, State and Zip: \_\_\_\_\_

Voice Phone Number: \_\_\_\_\_ FAX Number: \_\_\_\_\_

Internet E-Mail Address: \_\_\_\_\_

Please specify which court you are registering in (or both):

\_\_\_\_\_ District \_\_\_\_\_ Bankruptcy

By submitting this registration form, the undersigned agrees to abide by the following rules:

1. This system is for use only in cases permitted by the U.S. Courts for the Western District of Missouri. It may be used to file and view electronic documents, docket sheets, and notices.
2. At this time, the requirements for filing, viewing, and retrieving case documents are: a personal computer running a standard platform such as Windows or Macintosh, an Internet provider using Point to Point Protocol (PPP), Internet Explorer 5.5 or higher or Mozilla Firefox 2.0, and Adobe Acrobat Writer software to convert documents from a word processor format to a portable document format (PDF).

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3. Pursuant to Federal Rule of Civil Procedure 11, Every pleading, motion, and other paper (except list, schedules, statement or amendments thereto) shall be signed by at least one attorney of record or, if the party is not represented by an attorney, all papers shall be signed by the party. An attorney's/participant's password issued by the court combined with the user's identification, serves as and constitutes the attorney/participant's signature. Therefore, an attorney/participant must protect and secure the password issued by the court. If there is any reason to suspect the password has been compromised in any way, it is the duty and responsibility of the attorney/participant to immediately notify the court. This should include the resignation or reassignment of the person with authority to use the password. The attorney/participant should change the password immediately.
  4. It is YOUR responsibility to keep your contact information current. If you relocate and/or change email addresses, it is imperative that those changes be made to your User Account.
  5. An attorney's/participant's registration will constitute a waiver in law of conventional service of documents. The attorney/participant agrees that the CM/ECF-generated notice of electronic service will constitute service of the electronic filing on behalf of the client.
  6. The undersigned attorney agrees to abide by the Court's most recent General Orders, Administrative Procedures for Electronic Case Filing Manual and all technical and procedural requirements set forth therein, to include any updates or amendments.

Please return to: U.S. Bankruptcy Court  
Western District of Missouri  
Attn: Roberta Kostrow, Operations Manager  
400 East 9th Street, Room 1510  
Kansas City, MO 64106

If for District Only, please return to **ONE** of the following offices:

U.S. District Court  
1400 U.S. Courthouse  
222 John Q. Hammons Parkway  
Springfield, MO 65806

U.S. District Court  
Charles Whittaker Courthouse  
400 E. 9th Street  
Kansas City, MO 64106

U.S. District Court  
131 W. High Street  
Jefferson City, MO 65101

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Initial of First and Last Name/Last 4 Digits of SS#

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Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
My Commission Expires